

HOUSE BILL 1440  
By Dunn

AN ACT to amend Tennessee Code Annotated, Title 39, Chapter 14, Part 1, relative to the sale or exchange of certain personal property.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 39, Chapter 14, Part 1, is amended by adding Sections 2 and 3 as appropriately numbered new sections:

SECTION 2.

(a) As used in this act:

(1) "Flea market" means any event:

(A) At which two (2) or more persons offer personal property for sale or exchange; and

(B) Regardless of the number of persons offering or displaying personal property or the absence of fees, at which such property is offered or displayed for sale or exchange if the event is held more than six (6) times in any twelve (12) month period; and

(C) At which a fee is charged for the privilege of offering or displaying such personal property; or

(D) At which a fee is charged to prospective buyers for admission to the area where such personal property is offered or displayed for sale.

(2) The term "flea market" is interchangeable with and applicable to "swap meet", "indoor swap meet", or other similar terms regardless of whether

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these events are held inside a building or outside in the open. The primary characteristic is that these activities involve a series of sales sufficient in number, scope, and character to constitute a regular course of business.

(3) The term "flea market" shall not mean nor apply to an event which is organized for the exclusive benefit of any community chest, fund, foundation, association, or corporation organized and operated for religious, educational, or charitable purposes.

(4) "New and unused property vendor" means a person who engages in the retail sale of personal property at a flea market in this state and some of such property offered for sale is new and unused.

(5) "Old and used property vendor" means a person who engages in the retail sale of personal property at a flea market in this state and all of such property offered for sale is old and used.

(b)

(1) Every new and unused property vendor shall maintain a permanent record book in which shall be entered in ink and in legible English at the time any new and unused property is acquired for the purpose of retail sale:

(A) The date of the transaction;

(B) The name and address of the person, corporation, or entity from whom the property was acquired, and the distinctive number from such person's driver license or other similar identification card;

(C) An identification and description of the property acquired including, if reasonably available, the serial, model, or other number and all identifying marks inscribed thereon;

(D) The price paid for such property; and

(E) The signature of the seller of the property.

All entries shall appear in ink and shall be in chronological order. No blank lines may be left between entries. No obliterations, alterations, or erasures may be made. Corrections shall be made by drawing a line of ink through the entry without destroying the legibility. Upon the request of a law enforcement officer, such record book shall be made available for inspection within a period of time which is reasonable under the individual circumstances surrounding such request. Nothing contained within the provisions of this act shall be construed to require the vendor to possess such record book on or about his or her person while attending a flea market.

(2) Every new and unused property vendor may, in lieu of a permanent record book, maintain receipts for the purchase of such property so long as the receipts contain all of the information required under Section (b)(1).

(3) If a new and unused property vendor makes a single purchase of five hundred dollars (\$500) or more from an individual or corporation, the bill of sale from such purchase shall be sufficient to satisfy the record keeping requirements of this subsection.

(c) The record of each purchase transaction provided for in this section shall be maintained for a period of not less than two (2) years.

(d) If a record book required to be maintained by this section is lost, stolen or destroyed and the circumstances surrounding such loss do not constitute a violation of subsection (e) of this section, the vendor required to maintain such book shall, within thirty (30) days of its loss, notify the sheriff of the county of such vendor's principal place of residence and shall immediately begin maintaining a new record book. A vendor who properly notifies the sheriff in accordance with this subsection shall not be considered in violation of subsections (b) or (c) of this act as to any record that was maintained in the lost, stolen or destroyed book.

(e)

(1) It is an offense for any vendor required to maintain a record book under the provisions of this section to knowingly:

- (A) Fail to make an entry of any material matter in his or her permanent record book;
- (B) Make any false entry therein;
- (C) Falsify, obliterate, or destroy such record book;
- (D) Refuse or fail, upon the request of a law enforcement officer, to make such record book available for inspection within a period of time which is reasonable under the individual circumstances surrounding such request; provided, however, nothing contained within the provisions of this item shall be construed to require the vendor to possess such record book on or about his or her person while attending a flea market; or
- (E) Fail to maintain the records required by this section for at least two (2) years.

(2)(A) For the first violation of subpart (1) of this subsection, the violator shall be issued a warning and informed of the penalty for any subsequent violations.

(B) A second or subsequent violation of subpart (1) of this subsection is a Class B Misdemeanor punishable by fine only.

(f) This section shall apply to all new and unused property purchased or acquired on or after July 1, 1996.

SECTION 3. The provisions of Section 2 of this act shall not apply to:

- (a) The sale of a motor vehicle or trailer that is required to be registered or is subject to the certificate of title laws of this state;
- (b) The sale of food products, agricultural products or forestry products;
- (c) Business conducted at any industry or association trade show; or
- (d) The sale of arts or crafts by the person who produced such arts and crafts.

SECTION 4. This act shall take effect January 1, 1998, the public welfare requiring it.

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